



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-147, A-552-834, A-533-910]

Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable November 1, 2022.

FOR FURTHER INFORMATION CONTACT: Janaé Martin (the People's Republic of China (China)); Jinny Ahn (the Socialist Republic of Vietnam (Vietnam)); Eric Hawkins or Sun Cho (India); AD/CVD Operations, Offices V and VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0238, (202) 482-0339, (202) 482-1988, or (202) 482-6458, respectively.

### SUPPLEMENTARY INFORMATION:

#### The Petitions

On October 12, 2022, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of paper file folders from China, Vietnam, and India, filed in proper form on behalf of the Coalition of Domestic Folder Manufacturers (the petitioner),<sup>1</sup> the members of which are domestic producers of paper file folders.<sup>2</sup> These AD petitions were accompanied by a countervailing duty (CVD) petition concerning imports of paper file folders from India.<sup>3</sup>

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<sup>1</sup> The members of the Coalition of Domestic Folder Manufacturers are: Smead Manufacturing Company, Inc. and TOPS Products LLC.

<sup>2</sup> See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam," dated October 12, 2022 (Petitions).

<sup>3</sup> *Id.*

On October 17, 25, and 26, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.<sup>4</sup> The petitioner filed timely responses to the supplemental questionnaires on October 21, 26, and 27, 2022.<sup>5</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of paper file folders from China, Vietnam, and India are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the paper file folder industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in sections 771(9)(F) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigations.<sup>6</sup>

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<sup>4</sup> See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Supplemental Questions," dated October 17, 2022 (General Issues Supplemental Questionnaire); *see also* Country-Specific Supplemental Questionnaires: China Supplemental, Vietnam Supplemental, and India AD Supplemental, dated October 17, 2022; Memorandum, "Phone Call with Counsel to the Petitioner," dated October 25, 2022 (General Issues Memorandum); and Country-Specific Memoranda, Identifying Country-Specific Issues, dated October 25 and 26, 2022.

<sup>5</sup> See Petitioner's Country-Specific Supplemental Responses, dated October 21, 2022; *see also* Petitioner's Letter, "Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Volume I Supplemental Questionnaire," dated October 21, 2022 (First General Issues Supplement); Petitioner's Country-Specific First Supplemental Responses, dated October 21, 2022; Petitioner's Country-Specific Second Supplemental Responses, dated October 26, 2022; Petitioner's Letter, "Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Volume I Supplemental Question #20," dated October 26, 2022 (October 26 Injury Supplement); and Petitioner's Letter, "Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam: Response of Petitioner to Second Volume I Supplemental Questions," dated October 27, 2022 (Second General Issues Supplement).

<sup>6</sup> See *infra*, section on "Determination of Industry Support for the Petitions."

## Periods of Investigation

Because the Petitions were filed on October 12, 2022, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the India AD investigation is October 1, 2021, through September 30, 2022. Because China and Vietnam are non-market economy (NME) countries, pursuant to section 351.204(b)(1), the POI for the China and Vietnam AD investigations is April 1, 2022, through September 30, 2022.

## Scope of the Investigations

The product covered by these investigations is paper file folders from China, Vietnam, and India. For a full description of the scope of these investigations, *see* the appendix to this notice.

## Comments on the Scope of the Investigations

On October 17 and 25, 2022, Commerce requested information from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.<sup>7</sup> On October 21 and 27, 2022, the petitioner revised the scope.<sup>8</sup> The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).<sup>9</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,<sup>10</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on November 21, 2022, which is

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<sup>7</sup> See First General Issues Supplement at 3-4; *see also* General Issues Memorandum at 1-2.

<sup>8</sup> See First General Issues Supplement at Exhibit I-S2; *see also* Second General Issues Supplement at Exhibit I-2S1.

<sup>9</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>10</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on December 1, 2022, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

#### Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.<sup>11</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due.

#### Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of paper file folders to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOP) or costs of production (COP) accurately, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product

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<sup>11</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at [https://access.trade.gov/help/Handbook\\_on\\_Electronic\\_Filing\\_Procedures.pdf](https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf).

characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe paper file folders, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on November 21, 2022, which is 20 calendar days from the signature date of this notice.<sup>12</sup> Any rebuttal comments must be filed by 5:00 p.m. ET on December 1, 2022. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

#### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as

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<sup>12</sup> See 19 CFR 351.303(b)(1).

required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>13</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>14</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.<sup>15</sup> Based on our analysis of the information submitted on the record, we have determined that paper file folders, as defined in

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<sup>13</sup> See section 771(10) of the Act.

<sup>14</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>15</sup> See Petitions at Volume I (pages 11, 13-18, and Exhibits I-18 through I-26); *see also* First General Issues Supplement at 13-17.

the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>16</sup>

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the appendix to this notice. To establish industry support, the petitioner provided the 2021 net sales values of the domestic like product for U.S. producers that support the Petitions, and compared this to the estimated total sales values of the domestic like product for the entire domestic industry.<sup>17</sup> Because total industry production data for the domestic like product for 2021 are not reasonably available to the petitioner, and the petitioner has established that sales values and shipments are a reasonable proxy for production data,<sup>18</sup> we have relied on the data provided by the petitioner for purposes of measuring industry support.<sup>19</sup>

Our review of the data provided in the Petitions, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.<sup>20</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>21</sup> Second, the

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<sup>16</sup> For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* AD Investigation Initiation Checklists, “Paper File Folders from the People’s Republic of China,” “Paper File Folders from India,” and “Paper File Folders from the Socialist Republic of Vietnam,” dated concurrently with this notice (Country-Specific AD Initiation Checklists), at Attachment II (Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Paper File Folders from the People’s Republic of China, India, and the Socialist Republic of Vietnam).

<sup>17</sup> *See* Petitions at Volume I (pages 4-5 and Exhibits I-1, I-2, I-33, and I-35); *see also* First General Issues Supplement at 1, 8-13 and Exhibits I-S1, I-S4 and I-S5; and Second General Issues Supplement at 4-5 and Exhibit I-2S2.

<sup>18</sup> *See* Petitions at Volume I (page 5 and Exhibits I-1, I-2, I-33, and I-35); *see also* First General Issues Supplement at 1, 8 and Exhibits I-S1 and I-S4; and Second General Issues Supplement at 4-5 and Exhibit I-2S2.

<sup>19</sup> *See* Petitions at Volume I (pages 4-5 and Exhibits I-1, I-2, I-33, and I-35); *see also* First General Issues Supplement at 1, 8-13 and Exhibits I-S1, I-S4 and I-S5; and Second General Issues Supplement at 4-5 and Exhibit I-2S2.

<sup>20</sup> *See* Petitions at Volume I (pages 4-5 and Exhibits I-1, I-2, I-33, and I-35); *see also* First General Issues Supplement at 1, 8-13 and Exhibits I-S1, I-S4 and I-S5; and Second General Issues Supplement at 4-5 and Exhibit I-2S2. For further discussion, *see* Country-Specific AD Initiation Checklists at Attachment II.

<sup>21</sup> *See* Country-Specific AD Initiation Checklists at Attachment II; *see also* section 732(c)(4)(D) of the Act.

domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>22</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>23</sup> Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.<sup>24</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>25</sup>

The petitioner contends that the industry's injured condition is illustrated by a significant volume of subject imports; declining market share; underselling and price depression and/or suppression; lost sales and revenues; and adverse impact on the domestic industry's performance and development and production efforts.<sup>26</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>27</sup>

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<sup>22</sup> See Country-Specific AD Initiation Checklists at Attachment II.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See Petitions at Volume I (page 22 and Exhibit I-31).

<sup>26</sup> See Petitions at Volume I (pages 19-38 and Exhibits I-14 and I-27 through I-34); see also First General Issues Supplement at 17-21 and Exhibit I-S6; and the October 26 Injury Supplement at 1-2.

<sup>27</sup> See Country-Specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam (Attachment III).



## Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of paper file folders from China, Vietnam, and India. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

### U.S. Price

For China, India, and Vietnam, the petitioner based export price (EP) on pricing information for sales of, or offers for sale of, paper file folders produced in and exported from each country. The petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where applicable.<sup>28</sup>

### Normal Value<sup>29</sup>

For India, the petitioner stated it was unable to obtain home-market or third-country prices for paper file folders to use as a basis for NV.<sup>30</sup> Therefore, for India, the petitioner calculated NV based on CV.<sup>31</sup> For further discussion of CV, *see* the section “Normal Value Based on Constructed Value.”

Commerce considers China and Vietnam to be NME countries.<sup>32</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China and

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<sup>28</sup> See Country-Specific AD Initiation Checklists.

<sup>29</sup> In accordance with section 773(b)(2) of the Act, for the India investigation, Commerce will request information necessary to calculate the constructed value (CV) and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

<sup>30</sup> See India AD Initiation Checklist.

<sup>31</sup> *Id.*

<sup>32</sup> See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Decision Memorandum (*China's Status as a Non-Market Economy*), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018); *see also* *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016-2017*, 84 FR 18007 (April 29, 2019).

Vietnam as NME countries for purposes of the initiation of these investigations. Accordingly, NV in China and Vietnam is appropriately based on FOPs valued in surrogate market economy countries, in accordance with section 773(c) of the Act.

The petitioner claims that Malaysia is an appropriate surrogate country for China because Malaysia is a market economy country that is at a level of economic development comparable to that of China and is a significant producer of identical merchandise.<sup>33</sup> The petitioner provided publicly available information from Malaysia to value all FOPs.<sup>34</sup> Based on the information provided by the petitioner, we determine that it is appropriate to use Malaysia as a surrogate country for initiation purposes.

The petitioner claims that Indonesia is an appropriate surrogate country for Vietnam because Indonesia is a market economy country that is at a level of economic development comparable to that of Vietnam and is a significant producer of identical merchandise.<sup>35</sup> The petitioner provided publicly available information from Indonesia to value all FOPs.<sup>36</sup> Based on the information provided by the petitioner, we determine that it is appropriate to use Indonesia as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determinations.

#### Factors of Production

Because information regarding the volume of inputs consumed by Chinese and Vietnamese producers/exporters was not reasonably available, the petitioner used product-specific consumption rates from a U.S. producer of paper file folders as a surrogate to value

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<sup>33</sup> See China AD Checklist.

<sup>34</sup> *Id.*

<sup>35</sup> See Vietnam AD Checklist.

<sup>36</sup> *Id.*

Chinese and Vietnamese manufacturers' FOPs.<sup>37</sup> Additionally, the petitioner calculated factory overhead; selling, general and administrative (SG&A) expenses; and profit based on the experience of a Malaysian and Indonesian producer of identical merchandise for China and Vietnam, respectively.<sup>38</sup>

#### Normal Value Based on Constructed Value

As noted above for India, the petitioner stated it was unable to obtain home-market or third-country prices for paper file folders to use as a basis for NV. Therefore, for India, the petitioner calculated NV based on CV.<sup>39</sup>

Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing, SG&A expenses, financial expenses, and profit.<sup>40</sup> For India, in calculating the cost of manufacturing, the petitioner relied on the production experience and input consumption rates of a U.S. producer of paper file folders, valued using publicly available information applicable to India.<sup>41</sup> In calculating SG&A expenses, financial expenses, and profit ratios (where applicable), the petitioner relied on the fiscal year 2021-2022 financial statements of a producer of identical merchandise in India.<sup>42</sup>

#### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of paper file folders from China, India, and Vietnam, are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for paper file folders for each of the countries

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<sup>37</sup> See Volume II of the Petitions at 8-9; see also Volume IV of the Petitions at 9-10; China Supplemental Response at 3; and Vietnam Supplemental Response at 2.

<sup>38</sup> See Volume II of the Petitions at 9 and at Exhibits II-3 and II-17; see also Volume IV of the Petitions at 11 and Exhibits IV-3 and IV-16.

<sup>39</sup> See India AD Initiation Checklist.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

covered by this initiation are as follows: (1) China – 62.61 to 192.70 percent; (2) India – 86.01 to 225.24 percent; and (3) Vietnam – 180.61 to 233.93 percent.<sup>43</sup>

#### Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of paper file folders from China, Vietnam, and India are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

#### Respondent Selection

##### *China and Vietnam*

In the Petitions, the petitioner named 39 companies in China and nine companies in Vietnam as producers and/or exporters of paper file folders.<sup>44</sup> In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and/or exporters identified in the Petition, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Because there are 39 Chinese and nine Vietnamese producers and/or exporters identified in the Petitions, Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

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<sup>43</sup> See Country-Specific AD Initiation Checklists for details of calculations.

<sup>44</sup> See Petitions at Volume I (page 12 and Exhibit I-16); see also First General Issues Supplement at 1-3.

In addition, Commerce will post the Q&V questionnaires along with filing instructions on Commerce's website at <https://enforcement.trade.gov/questionnaires/questionnaires-ad.html>. Producers/exporters of paper file folders from China and Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Commerce's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Chinese and Vietnamese producers/exporters no later than 5:00 p.m. ET on November 15, 2022, which is two weeks from the signature date of this notice. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under administrative protective order (APO) in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <https://enforcement.trade.gov/apo>. Commerce intends to make its decisions regarding respondent selection within 20 days of publication of this notice.

### *India*

The petitioner named 20 companies in India as producers/exporters of paper file folders.<sup>45</sup> Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents in India based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheading listed in the scope of the investigations in the appendix to this

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<sup>45</sup> See Petitions at Volume I (page 12 and Exhibit I-16).

notice.

On October 31, 2022, Commerce released CBP data on U.S. imports of paper file folders from India under APO to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days after the publication date of the notice of initiation of these investigations.<sup>46</sup> Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <https://enforcement.trade.gov/apo>.

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by Commerce's electronic records system, ACCESS, no later than 5:00 p.m. ET on the dates noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice.

#### Separate Rates

In order to obtain separate rate status in an NME investigation, exporters and producers must submit a separate rate application.<sup>47</sup> The specific requirements for submitting a separate rate application in an NME investigation are outlined in detail in the application itself, which is available on Commerce's website at <https://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate rate application will be due 30 days after publication of this initiation notice.<sup>48</sup>

Exporters and producers who submit a separate rate application and have been selected as mandatory respondents will be eligible for consideration for separate rate status only if they

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<sup>46</sup> See Memoranda, "Petition for the Imposition of Antidumping Duties on Imports of Paper File Folders from India: Release of Customs Data from U.S. Customs and Border Protection," dated October 31, 2022; and "Countervailing Duty Petition on Imports of Paper File Folders from India: Release of U.S. Customs and Border Protection Data," dated October 31, 2022.

<sup>47</sup> See Enforcement and Compliance's Policy Bulletin 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries," (April 5, 2005) (Policy Bulletin 05.1), available at <https://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>48</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

respond to all parts of Commerce’s AD questionnaire as mandatory respondents. Commerce requires that companies from China and Vietnam submit a response both to the Q&V questionnaire and to the separate rate application by the respective deadlines in order to receive consideration for separate rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

#### Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the {weighted average} of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.<sup>49</sup>

#### Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of China, Vietnam, and India via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

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<sup>49</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of paper file folders from China, India, and/or Vietnam,, are materially injuring, or threatening material injury to, a U.S. industry.<sup>50</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country.<sup>51</sup> Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>52</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>53</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

#### Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that "if a particular market situation exists such that the cost of materials

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<sup>50</sup> See section 773(a) of the Act.

<sup>51</sup> *Id.*

<sup>52</sup> See 19 CFR 351.301(b).

<sup>53</sup> See 19 CFR 351.301(b)(2).



and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent’s initial section D questionnaire response.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.<sup>54</sup> For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely filed requests for the extension

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<sup>54</sup> See 19 CFR 351.302.

of time limits. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in these investigations.<sup>55</sup>

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>56</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>57</sup> Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.*, by filing the required letter of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>58</sup>

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: November 1, 2022.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.

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<sup>55</sup> See 19 CFR 351.301; *see also* *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

<sup>56</sup> See section 782(b) of the Act.

<sup>57</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at [https://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>58</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

## Appendix

### Scope of the Investigations

The products within the scope of these investigations are file folders consisting primarily of paper, paperboard, pressboard, or other cellulose material, whether coated or uncoated, that has been folded (or creased in preparation to be folded), glued, taped, bound, or otherwise assembled to be suitable for holding documents. The scope includes all such folders, regardless of color, whether or not expanding, whether or not laminated, and with or without tabs, fasteners, closures, hooks, rods, hangers, pockets, gussets, or internal dividers. The term “primarily” as used in the first sentence of this scope means 50 percent or more of the total product weight, exclusive of the weight of fasteners, closures, hooks, rods, hangers, removable tabs, and similar accessories, and exclusive of the weight of packaging.

Subject folders have the following dimensions in their folded and closed position: lengths and widths of at least 8 inches and no greater than 17 inches, regardless of depth.

The scope covers all varieties of folders, including but not limited to manila folders, hanging folders, fastener folders, classification folders, expanding folders, pockets, jackets, and wallets.

Excluded from the scope are:

- mailing envelopes with a flap bearing one or more adhesive strips that can be used permanently to seal the entire length of a side such that, when sealed, the folder is closed on all four sides;
- binders, with two or more rings to hold documents in place, made from paperboard or pressboard encased entirely in plastic;
- non-expanding folders with a depth exceeding 2.5 inches and that are closed or closeable on the top, bottom, and all four sides (*e.g.*, boxes or cartons);
- expanding folders that have (1) 13 or more pockets, (2) a flap covering the top, (3) a latching mechanism made of plastic and/or metal to close the flap, and (4) an affixed plastic or metal carry handle;
- expanding folders that have an outer surface (other than the gusset, handles, and/or closing mechanisms) that is covered entirely with fabric, leather, and/or faux leather;
- fashion folders, which are defined as folders with all of the following characteristics: (1) plastic lamination covering the entire exterior of the folder, (2) printing, foil stamping, embossing (*i.e.*, raised relief patterns that are recessed on the opposite side), and/or debossing (*i.e.*, recessed relief patterns that are raised on the opposite side), covering the entire exterior surface area of the folder, (3) at least two visible and printed or foil stamped colors other than the color of the base paper, and other than the printing of numbers, letters, words, or logos, each of which separately covers no less than 10 percent of the entire exterior surface area, and (4) patterns, pictures, designs, or artwork covering no less than thirty percent of the exterior surface area of the folder;
- portfolios, which are folders having (1) a width of at least 16 inches when open flat, (2) no tabs or dividers, and (3) one or more pockets that are suitable for holding letter size

documents and that cover at least 15 percent of the surface area of the relevant interior side or sides; and

- report covers, which are folders having (1) no tabs, dividers, or pockets, and (2) one or more fasteners or clips, each of which is permanently affixed to the center fold, to hold papers securely in place.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) category 4820.30.0040. Subject imports may also enter under other HTSUS classifications. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

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